HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 26416 OF 2006

DATED: 12.2.2007

Between:

The Vegetable Merchants Association and others

… Petitioners

and

The Parvathipuram Municipality and another

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.26416 of 2006

ORAL ORDER:

The petitioners are 3 associations; one of the vegetable merchants, one of fishing vendors and one representing RTC Kalasis. They are aggrieved that Parvathipuram municipality is about to close the market and for that purpose is proceeding to evict the members of the petitioners' associations without notice and during the subsistence of the respective licences or leases.

The impetus for filing of the writ petition is a news item in a Telugu daily on 12.12.2006, which reported that the municipal council has decided to remove the works under " Improvement and Development of Small and Medium Towns" (IDSMT) scheme and that all the shops in the Nehru Municipal Market, Opposite to old bus stand in Parvathipuram, will be removed.

The petitioners do not assert that any overt action has been taken to evict any of the vendors or members of any of the petitioners' associations. The writ petition is filed on an apprehension engendered by a news report.

On behalf of the municipality, a counter affidavit has been filed by the municipal commissioner. The counter, to the extent relevant and material to the issues in the writ petition, asserts that the Nehru

Municipal market is more than 60 years old; from the 58 shops in the market which are in an advance stage of dilapidation and likely to collapse at any time; that in view of the eminently dangerous nature of the structures, it has been decided and resolved to shift the market location. The counter affidavit states that all the pre-existing leases ended by 31.3.2006 and the municipality has not conducted auction of the lease of the shops as a new shopping complex is to be constructed under the IDSMT Scheme. Insofar as the 3rd petitioner is concerned, the counter states that when Parvathipuram was a gram panchayat, it has constructed a bus shelter which is also 60 years old and the members of the 3rd petitioner-union, who were Kalasis, used to transport vegetables to the shops from the bus shelter. The municipality is not deriving any revenue either directly or indirectly from the union or the bus shelter and that in the circumstances, the 3rd petitioner has no ***locus standi*** to maintain the writ petition.

The counter affidavit further asserts that an alternative site has been shown to all the leaseholders which is 100 meters away from the present market and the municipal council has passed a resolution on 28.2.2006 to provide alternative sites to the existing leaseholders including the members of the petitioners' association. It is also stated that auction was also conducted on 16.3.2006, proposing vegetable market at the alternative site and that in the totality of circumstances, no relief could be granted.

On behalf of the petitioners, they neither pleaded, asserted or shown that they have any legal entitlement to perpetual continuance in a premises in respect of which they had annual leases which had also expired. The existence of a legal right is the only legitimate foundation for a Mandamus. No such legal right or a legitimate expectation is shown and therefore no justification exists for grant of a Mandamus.

The writ petition is bereft of merits and is accordingly

dismissed. No costs.

GODA RAGHURAM, J

Date: 12.2.2007
cvm